IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.510/2000

Gokul **Versus** State

DATE OF ORDER :: 02/08/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Vijay Yadav for Mr. Ram Pal Singh Choudhary, for petitioner
Mr. Arun Sharma, P.P.

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Instant petition has been filed by accused-petitioner assailing the order dated 22nd April, 1999 whereby his protest petition against the cognizance taken by learned trial Judge was dismissed and the revision petition preferred against the said order was also rejected vide order dated 7th June, 2000.

The complainant initially filed a complaint on which after investigation u/s.156(3) Cr.P.C., the Investigating Officer submitted his Final Report. At that stage, protest petition was filed by complainant and statements of witnesses were recorded and after taking into consideration the same, learned trial Judge took cognizance against accused-petitioner u/ss.148, 323, 452, 324 I.P.C. read with Section 2 of Rajasthan Preservation of Certain Animals Act, 1950.

Basic objection raised by petitioner in his application against cognizance was that Section 2 of Act, 1950 has been repealed, as such no cognizance could be taken against him under the Repealed Act.

Counsel has tried to convince this court that even on the material on which learned trial Judge took cognizance against petitioner, no offence is made out.

I have heard counsel for petitioner and so also learned Public Prosecutor.

Learned trial Judge has only taken cognizance and the charges are yet to be framed in the instant matter. Petitioner will always be at liberty to raise objections at the stage of framing charge and this court at this stage cannot hold inquiry to find out the trustworthiness of the statements made.

So far as the submission made with respect to taking cognizance u/s.2 of Act, 1950 is concerned, the Court finds substance that the Act was repealed and Rajasthan Bovine Animal [Prohibition of Slaughter and Regulation of Temporary Migration or Export] Act, 1995 was enacted. Section 2 of Act, 1950 has been deleted as is evident from Section 16 of the Act.

Petitioner will be at liberty to submit all the objections before learned trial Judge and the court will consider the same while framing charges against accused-petitioner, if at all, is made out.

Consequently, this court finds no force in the petition, the same stands dismissed. Record be sent to trial court.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.